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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 LEEROY ELIJAH KRAUSE,

9 Plaintiff,

v.

10 VANCOUVER POLICE
11 DEPARTMENT, et al.,

12 Defendants.

CASE NO. C22-5204 BHS

ORDER

13 This matter is before the Court on Magistrate Judge Grady J. Leupold's Report
14 and Recommendation (R&R), Dkt. 71, recommending that the Court grant Defendants
15 Vancouver Police Department (VPD) and its officers Nicholaas Gillingham, Ryan
16 Starbuck, Christopher Simmons, and Travis Brown's motion for summary judgment, Dkt.
17 45, and Defendant American Medical Response Northwest (AMR)'s motion for summary
18 judgment, Dkt. 61. Pro se Plaintiff Leroy E. Krause was arrested by the officer
19 defendants and forcibly sedated by an AMR employee during that arrest. He sued,
20 asserting 42 U.S.C. § 1983 claims based on alleged violations of his Fourth, Fifth and
21 Fourteenth Amendment rights. The R&R thoroughly recites the claims and the evidence
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1 and concludes that Defendants are entitled to judgment as a matter of law. It concludes
2 the officer defendants' use of force was not unreasonable as a matter of law because
3 Krause was suspected of a violent domestic assault, actively resisted arrest, and suffered
4 only minor injuries, Dkt. 71 at 12. It concludes that Krause's § 1983 claim against AMR
5 fails as a matter of law because AMR is not a state actor. *Id.* at 14. And it concludes that
6 two of Krause's claims are barred by *Heck v Humphries*, 512 U.S. 477, 487 (1994). *See*
7 *Beets v. County of Los Angeles*, 669 F.3d 1038, 1042 (9th Cir. 2011) (Under *Heck*, a
8 plaintiff cannot sue under § 1983 if his success would “‘demonstrate’ the invalidity of the
9 earlier conviction or sentence”). It recommends dismissing the case with prejudice.
10 Krause has not objected to the R&R.

11 A district court “shall make a de novo determination of those portions of the report
12 or specified proposed finding or recommendations *to which objection is made.*” 28
13 U.S.C. § 636(b)(1)(C) (emphasis added); *accord* Fed. R. Civ. P. 72(b)(3). “The statute
14 makes it clear that the district judge must review the magistrate judge’s findings and
15 recommendations de novo *if objection is made*, but not otherwise.” *United States v.*
16 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). A proper objection requires
17 “specific written objections to the proposed findings and recommendations” in the R&R.
18 Fed. R. Civ. P. 72(b)(2).

19 The R&R is **ADOPTED**. Defendants’ motions for summary judgment, Dkts. 45
20 and 61, are **GRANTED** and Krause’s claims are **DISMISSED** with prejudice.

21 The Clerk shall enter a **JUDGMENT** and close the case.

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1 **IT IS SO ORDERED.**

2 Dated this 3rd day of November, 2023.

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5 BENJAMIN H. SETTLE
6 United States District Judge
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